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Letter dated 5 May 2005 from the Chairman of the Commission on the Limits of the Continental Shelf addressed to the President of the fifteenth Meeting of States Parties

1. It is my honour to address the Meeting of States Parties to the United Nations Convention on the Law of the Sea once again in my capacity as Chairman of the Commission on the Limits of the Continental Shelf, and to inform you about developments in the work of the Commission that have taken place since I addressed the fourteenth Meeting in June 2004.

2. As you are aware, article 76 of the Convention sets out the definition and the various methods for a coastal State to establish the outer limits of its continental shelf, including beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

3. It may be recalled that the Commission was established to perform two specific functions, as set out in article 3 (1) of annex II to the Convention:

(a) To consider the data and other material submitted by coastal States concerning the outer limits of the continental shelf in areas where those limits extend beyond 200 nautical miles, and to make recommendations in accordance with article 76 and the Statement of Understanding adopted on 29 August 1980 by the Third United Nations Conference on the Law of the Sea;

(b) To provide scientific and technical advice, if requested by the coastal State concerned during the preparation of the data referred to in subparagraph (a).

4. Since the fourteenth Meeting of States Parties, held in June 2004, the Commission has held its fourteenth and fifteenth sessions. The fourteenth session was held from 30 August to 3 September 2004. An account of the progress of work in the Commission at that session is contained in the statement of the Chairman (CLCS/42). At that session the Commission began the consideration of the submission of Brazil made pursuant to article 76, paragraph 8, of the United Nations Convention on the Law of the Sea.

5. The presentation of the submission of Brazil was made by Vice-Admiral Lúcio Franco de Sá Fernandes, Director of Hydrography and Navigation, Ministry of Defence of Brazil, who was accompanied by a delegation of experts.

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6. The Commission decided that, as provided for in article 5 of annex II to the Convention and in rule 42 of the rules of procedure of the Commission, the submission of Brazil would be examined through the establishment of a subcommission. A subcommission was consequently established taking into account the provisions of the United Nations Convention on the Law of the Sea and the rules of procedure of the Commission, inter alia, the need for geographical and scientific balance. The members of the Subcommission are: Osvaldo Pedro Astiz, Lawrence Folajimi Awosika, Galo Carrera Hurtado, Mladen Juračić, Wenzheng Lu, Yong-Ahn Park and Philip Alexander Symonds. The Subcommission elected Mr. Carrera as its Chairman, and Mr. Juračić and Mr. Symonds as its Vice-Chairmen.

7. The Chairman of the Subcommission informed the Commission that in accordance with section 10, paragraph 2, of annex III to the rules of procedure, it had decided to seek the advice of another member of the Commission, Harald Brekke.

8. In accordance with annex III, paragraph 5, the Subcommission completed its preliminary analysis of the submission, during which it had a number of meetings with the experts in the delegation of Brazil. The Subcommission outlined the general timetable for its work, including the intersessional periods.

9. The fifteenth session of the Commission was held from 4 to 22 April 2005. At that session, the Commission began consideration of the submission by Australia. After the Russian Federation in 2001 and Brazil in 2004, Australia is the third country to make a submission to establish the outer limits of the continental shelf where it extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. The submission, containing scientific and technical data and information on the proposed outer limits of the continental shelf, was delivered to the Secretary-General of the United Nations on 15 November 2004.

10. The presentation of the submission of Australia was made by Christos Moraitis, Head of the delegation of Australia, with additional comments made by Bill Campbell, Alternate Head of delegation. The delegation of Australia also included a number of scientific, technical and legal advisers.

11. As in the case of the submissions by the Russian Federation and Brazil, the Commission, in accordance with its rules of procedure, decided that the submission of Australia would be examined through the establishment of a subcommission. A subcommission was therefore appointed taking into account the provisions of the United Nations Convention on the Law of the Sea and the rules of procedure of the Commission, inter alia, the need for a geographical and scientific balance. The members of the Subcommission are: Alexandre Tagore Medeiros de Albuquerque, Harald Brekke, Indurlall Fagoonee, Fernando Manuel Maia Pimentel, Kensaku Tamaki, Naresh Kumar Thakur and Yao Ubuènalè Woeledji. The Subcommission elected Mr. Brekke as its Chairman, and Mr. Albuquerque and Mr. Tamaki as its Vice-Chairmen.

12. The Chairman of the Subcommission later informed the Commission that the Subcommission had proceeded with its preliminary examination of the submission and the data contained therein. He informed the Commission that, in view of the volume and nature of the data contained in the submission, the subcommission would require additional time for the consideration of that submission, and possibly intersessional meetings. He further informed the Commission that the

Subcommission had decided, in accordance with section 10, paragraph 2, of annex III to the rules of procedure, to seek the assistance of another member of the Commission, Mr. Carrera.

13. During the session, the Subcommission had several meetings with the Australian delegation. The Subcommission will reconvene in New York for another meeting from 27 June to 1 July 2005 and also continue its work during the intersessional period. The Subcommission will continue its examination of the submission during the sixteenth session of the Commission, which will take place from 29 August to 16 September 2005.

14. During the session, the Chairman of the Subcommission considering the Brazilian submission reported to the Commission about additional material received, through the secretariat, from the Government of Brazil during the intersessional period between October 2004 and February 2005, as well as additional information transmitted in a letter dated 24 March 2005 from the head of the delegation of Brazil to the Chairman of the Subcommission. It was reported that the Subcommission had made considerable progress in the examination of the submission by the end of the fifteenth session. It was also decided that the Subcommission would meet in the week prior to the scheduled beginning of the sixteenth session. During that week, the Subcommission would attempt to begin the preparation of its recommendations and the format of their presentation to the Commission.

15. As far as other matters are concerned, during the fifteenth session the Commission was informed of the completion of the draft of a training manual, which had been prepared by the Division for Ocean Affairs and the Law of the Sea in cooperation with two coordinators who are members of the Commission. The Commission was also informed about a series of training courses given by the Division for Ocean Affairs and the Law of the Sea on the delineation of the outer limits of the continental shelf beyond 200 nautical miles and on the preparation of submissions. The Division is organizing the courses at the regional level, in cooperation with States and relevant international organizations. The first of the training courses was held in Fiji from 28 February to 4 March 2005; the second one will be held in Sri Lanka from 16 to 20 May 2005. The Commission was further informed that the third regional training course had been proposed to be held for the developing States of West Africa that are expected to make submissions to the Commission, in cooperation with the Government of Ghana and relevant international organizations, tentatively in December 2005, and that a training course for Latin America and the Caribbean would take place in spring 2006.

16. A number of trainees from developing countries participating in the first two training courses benefited from the Trust Fund created by the General Assembly in 2000 (resolution 55/7) for the purpose of facilitating the preparation of submissions to the Commission on the Limits of the Continental Shelf for developing States, in particular the least developed countries and small island developing States, and compliance with article 76 of the United Nations Convention on the Law of the Sea. The terms of reference, guidelines and rules of the Fund were amended by the General Assembly at its fifty-eighth session, in resolution 58/240 of 23 December 2003, and the amendments are contained in the annex to that resolution. In view of the benefits that the developing countries can derive through the Trust Fund, the

Commission would like to call on States for political and financial support for the Trust Fund.

17. A second Trust Fund has been established to help developing States defray the costs of the participation of members of the Commission from their countries. Five developing States have applied for support for the participation of their nationals in the Commission at its two most recent sessions.

18. The Commission was informed by the Division for Ocean Affairs and the Law of the Sea about the projected timing of the potential submissions to the Commission. In addition to States mentioned in my previous letter (SPLOS/111, paras. 15 and 16), the Division received information that Tonga intends to proceed with its submission prior to December 2006, Nigeria by mid-2006, New Zealand in 2006, the United Kingdom of Great Britain and Northern Ireland before 2007, Uruguay in 2007, Japan in the first half of 2009, Myanmar and Guyana before the 10-year limit expires in 2009 and Canada by 2013.

19. I wish to take this opportunity to draw the attention of the States parties to two issues of urgent importance in this context. First, there are additional requirements regarding staff, facilities, software and hardware essential for the consideration of submissions. While the Commission greatly appreciates the efforts of the Secretary-General in the enlargement of office space, improvement of technical facilities and provision of new equipment to the Commission, it has become clear in view of the recent voluminous and complex submissions received that the Commission cannot proceed efficiently without receiving far more support from the Secretariat in terms of staff and additional computer hardware and software, as well as data and relevant reference materials. The Commission has decided that a letter on the subject would be prepared and forwarded through the Chairman of the Commission to the Secretariat of the United Nations.

20. Second, there is the issue of workload for members of the Commission on the Limits of the Continental Shelf and funding for its members attending meetings of subcommissions, which was extensively discussed during the last two sessions. There is a widespread feeling among the members of the Commission that, under current arrangements, the Commission may not be in a position to perform its functions in an efficient and timely manner. The examination of the submissions consists of numerous steps and complex tasks which the members of the subcommissions have to perform not only during the sessions of the subcommissions, but also during the intersessional periods. By reason of their responsibilities as Commission members with regard to the examination of the submissions, they cannot delegate any tasks that require the exercise of scientific or technical judgement to the secretariat, nor to outside sources. Linked to this problem is the duration of the examination of submissions, which extends for long periods of time both during the sessions and during the intersessional periods, which presents difficulties for all members of the Commission.

21. During the last session of the Commission, various proposals were made on this issue, including suggestions that the members of the Commission might need to devote full-time attention during certain periods of the year to the work they perform on the examination of the submissions. The attention of States Parties is specifically drawn to the workload facing the Commission in connection with the examination of the submissions, and the time required to complete the necessary tasks. At the request of the Commission, I have prepared a short presentation on this

topic. With your permission and if time allows, I can make that presentation to the meeting of States parties immediately following my statement. The presentation describes the projected workload of the Commission on the Limits of the Continental Shelf from 2005 to 2009.

22. The Commission would like once again to assure the States parties of its readiness to continue to perform its mandated functions with a view to ensuring that the vision of the drafters of the Convention regarding the role of the Commission in the establishment of the outer limits of the extended continental shelf is fulfilled.

I would like to request that the present letter be circulated as a document of the fifteenth Meeting of States Parties.

(*Signed*) Peter F. **Croker**
Chairman of the Commission on the Limits of the Continental Shelf